

**RECORD OF PROCEEDINGS
OF THE GOVERNING BODY
CITY OF GARDNER, KANSAS**

Page No.2007-55
August 6, 2007

The City Council of the City of Gardner, Kansas, met in regular session on Monday, August 6, 2007, at 7:00 P.M. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Honorable Mayor, Carol Lehman presiding. Present were Councilmembers Winters, Breen, Raney, Drovetta and Shepherd. City Staff present were City Administrator Fairburn, Assistant City Administrator Mundt, Finance Director Gourley, Public Works Director Greene, Community Development Director Sherman, Public Safety Director Francis, Park and Recreation Director Stewart, City Attorney Hubbard and City Clerk Anderson. Others present included those listed on the attached sign in sheet and others who did not sign in.

CALL TO ORDER

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Lehman at 7:00 P.M.

PLEDGE OF ALLEGIANCE

Councilmember Drovetta led those in attendance in the Pledge of Allegiance.

PRESENTATION

Council joined with the Mayor in recognizing Sergeant Stephen J. Benz III for ten (10) years of service to the City of Gardner. Mayor Lehman presented Benz with certificates from the City of Gardner and the League of Kansas Municipalities. Benz was presented with a gift from the City and a service pin from LKM.

Council joined with the Mayor in recognizing Chief Kenneth Francis for twenty (20) years of service to the City of Gardner. Mayor Lehman presented Francis with certificates from the City of Gardner and the League of Kansas of Municipalities. Francis was presented with a gift from the City and a service pin from LKM.

PUBLIC COMMENTS

Linda Meisinger, 102 S. Elm Gardner, Dolphin Song Owner, read a letter to Councilmembers that listed various questions and requests relating to the infrastructure costs of the intermodal project. A copy of the letter was given to the City Clerk for distribution to Councilmembers.

Karen Stevenson, 205 W. Main Gardner, commented on various increases that she has read about in the local newspaper. Stevenson asked for clarification regarding who is paying for sewers, streets and electricity availability in all of the new housing areas in Gardner and at the Intermodal site.

CONSENT AGENDA

Councilmember Shepherd asked that Consent Items 6, 7, 8, and 9 be removed for discussion.

Councilmember Drovetta made a motion to approve Consent items 1, 2, 3, 4, 5, and 10.

1. Standing approval of the minutes as written for the regular meeting on July 16, 2007.
2. Standing approval of the expenditures prepared on July 13, July 20, July 27, and August 1, 2007 in the amount of \$960,869.50.
3. Consider authorizing the City Administrator to extend the contract with Gardner Disposal Service for refuse hauling services.
4. Consider rescheduling the September 3, 2007 Council Meeting to September 4, 2007 due to Labor Day Holiday.

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5. Consider authorizing the City Administrator to enter into a contract with Aerial FX, Inc. for the fireworks show for the Festival on the Trails on September 15, 2007.
- ~~6. Consider the Acceptance of Easements and Rights-of-Way for the Final Plats for:
Cottage Park West, 21st Plat; FP-07-10~~
- ~~7. Consider the Acceptance of Easements and Rights-of-Way for the Final Plats for Cottage
Park West, 22nd Plat; FP-07-11~~
- ~~8. Consider authorizing payment to Gardner Area Chamber of Commerce for their continual
facilitation of a positive business climate and promotion of economic development in
Gardner.~~
- ~~9. Consider authorizing payment to KCPL to provide electric service for the Kill Creek Lift
Station.~~
10. Consider authorizing the City Administrator to execute pole attachment agreements with Time Warner Cable and Embarq.

Councilmember Breen seconded the motion.

All of the members voting in favor of the motion, the motion carried.

CONSENT AGENDA

6. Consider the Acceptance of Easements and Rights-of-Way for the Final Plats for:
Cottage Park West, 21st Plat; FP-07-10
7. Consider the Acceptance of Easements and Rights-of-Way for the Final Plats for Cottage
Park West, 22nd Plat; FP-07-11
8. Consider authorizing payment to Gardner Area Chamber of Commerce for their continual
facilitation of a positive business climate and promotion of economic development in
Gardner.
9. Consider authorizing payment to KCPL to provide electric service for the Kill Creek Lift
Station.

Councilmember Shepherd asked for clarification on the location of Consent Items 6 and 7. Further discussion included type of homes, excise tax and remaining parcels in the area.

Councilmember Shepherd asked for clarification of the use of bed tax mentioned in Consent Item 8. Lehman explained that the bed tax supports economic development. Shepherd asked if there was enough money for the museum. The Mayor confirmed that there was enough money for the museum.

Councilmember Shepherd asked if the request in Consent Item 9 was in the original plan. Greene explained that the request will be a cost savings to the City of Gardner.

Councilmember Shepherd moved to accept Consent Items 6, 7, 8 and 9.

Councilmember Drovetta seconded the motion.

All of the members voting in favor of the motion, the motion carried.

NEW BUSINESS

Mayor Lehman explained that due to guests waiting to speak, the New Business Agenda Items would not be followed in order.

RECORD OF PROCEEDINGS

Public Hearing Regarding CMB on Public Property

Mundt presented background information on the development for the Oak Tree Saloon at the Festival on the Trails. Cherlyn White-Conklin, Erich Conklin, Wally Borth and Chris Meyer came before Council to represent Festival on the Trails volunteers working on the Oak Tree Saloon. Discussion included steps taken to ensure the security of the area, the availability of bottled water, structure for sponsorship level, and admittance to VIP area.

Mayor Lehman opened a Public Hearing to hear public comments regarding the request to allow the sale of cereal malt beverages on public property during the Festival on the Trails within 200 feet of a church, City Hall and library.

There were no public comments offered during the hearing.

Councilmember Raney made a motion to close the public hearing to hear public comments regarding the request to allow the sale of cereal malt beverages on public property during the Festival on the Trails within 200 feet of a church, City Hall and library.

Councilmember Breen seconded the motion.

All of the members voting in favor of the motion, the motion carried.

Temporary Permit for Consumption of CMB's at Festival on the Trails

Mundt presented background information on the request for a temporary CMB license for the Festival on the Trails.

Councilmember Raney made a motion to approve a temporary permit for consumption of cereal malt beverages at the Festival of the Trails for September 15, 2007.

Councilmember Shepherd seconded the motion.

All of the members voting in favor of the motion, the motion carried.

Public Hearing Regarding the 2008 Budget

Fairburn reviewed highlights of the 2008 Budget.

Mayor Lehman opened the Public Hearing to hear public comments regarding the City's 2008 Budget. There were no comments during the public hearing.

Councilmember Breen made a motion to close the public hearing to hear public comments regarding the City's 2008 Budget.

Councilmember Drovetta seconded the motion.

All of the members voting in favor of the motion, the motion carried.

RECORD OF PROCEEDINGS

Gardner Junction Park Construction

Mundt presented Council with background information on Gardner Junction Park. John Atkinson, Santa Fe Trail Association and the Oregon Trail Association, thanked the Council for allowing Mundt to work on the proposal to the Kansas Department of Transportation. Atkinson explained that the .8 acre area is unique as it is where thousands of people made the decision to go to Santa Fe or Oregon.

Councilmember Breen made a motion to consider authorizing the City Administrator to execute a contract with Sam Andersen Construction Co., LLC, for the construction of Gardner Junction Park in an amount not to exceed \$157,600.

Councilmember Shepherd seconded the motion.

All of the members voting in favor of
the motion, the motion carried

Intermodal & Logistics Park Project

Fairburn gave a presentation of the business item and explained the decision to hire a consultant. Kevin Nunnick, Chief Executive Officer, Integra Realty Resources, informed the Council of what they can expect from his company. Nunnick gave background information of IRR and explained what IRR will be looking for during the consulting process. Mayor Lehman invited the public to make comments. Linda Meisinger, Dolphin Song Owner, commented on past projects that IRR worked on in Kansas City. Eric Kirkendall, 25865 W. 167th Gardner, commented on the need for Council to develop goals and objectives prior to hiring a consultant. Councilmembers then directed questions to Nunnick. Discussion included objectivity, prior experience with an Intermodal facility and Nunnick's interpretation of a "fair deal." Further discussion included an interchange, the impact on Gardner Road, and public-private partnerships.

Councilmember Raney made a motion to table the discussion to authorize the City Administrator to execute a contract with IRR Corporate and Public Finance, LLC for development consultant services for the Intermodal and Logistics Park project until September 4, 2007.

Councilmember Shepherd seconded the motion

Lehman was not in favor of tabling the discussion. Drovetta concurred with Lehman stating that if the Council delays they may have to make a decision later in haste. Shepherd commented on the financial report that he felt was rushed. Lehman called for a vote on the motion.

On a roll call the vote was: Winters No;
Breen, Yes; Raney, Yes; Drovetta, No;
Shepherd, Yes. With the majority of the
members voting in favor of the motion, the
motion carried.

Appeal of Planning Commission Stipulations: SP-07-10 for Auto Zone

Sherman presented Council with background information regarding the Planning Commission's decision. Discussion included setting a precedent of overriding the authorities set forth in Ordinances. Hubbard shared his concerns.

Councilmember Raney made a motion to override the Planning Commission stipulations that "There shall be no signage on the east side of the building" and to approve SP-07-10 for Auto Zone to be located at 625 E. Main Street.

Councilmember Breen seconded the motion.

All of the members voting in favor of
the motion, the motion carried.

General Obligation Temporary Notes

Gourley presented Council with information regarding General Obligation Temporary Notes and informed Council of when the notes will become permanent.

Councilmember Raney made a motion to adopt a Resolution authorizing the offer for sale of certain General Obligation Temporary Notes of the City of Gardner, Kansas.

Councilmember Shepherd seconded the motion.

On a roll call the vote was: Winters, Yes; Breen, Yes; Raney, Yes; Drovetta, Yes; Shepherd, Yes. With all of the members voting in favor of the motion, the resolution was adopted and assigned Resolution # 1728.

Sludge Removal from Kill Creek Wastewater Treatment Plant

Councilmember Raney made a motion to authorize the City Administrator to execute a two-year contract with Synagro Central, LLC, for sludge removal from the Kill Creek Wastewater Treatment Plant.

Councilmember Winters seconded the motion.

All of the members voting in favor of
the motion, the motion carried.

Westside Park Parking Lot Rehabilitation

Stewart notified the Council of a typographical error in the CAF. It was noted that the amount requested was \$157,500.00. Further discussion included the possibility of overflow parking with Sacred Heart Church, as suggested by Councilman Shepherd.

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Councilmember Drovetta made a motion to authorize the City Administrator to enter into a contract with Holland Corporation for an amount not to exceed \$157,500.00 for the rehabilitation of the Westside Park Parking Lot.

Councilmember Breen seconded the motion.

All of the members voting in favor of
the motion, the motion carried.

Plum Creek Public Safety Station Change Order No. 2

Councilmember Raney made a motion to authorize the City Administrator to execute Change Order No. 2 to the construction contract with McCownGordon Construction for the Plum Creek Public Safety Station.

Councilmember Drovetta seconded the motion.

All of the members voting in favor of
the motion, the motion carried

Festival on the Trails Main Stage

Councilmember Raney made a motion to authorize the City Administrator to enter into a contract with Sound Check, Inc. for the main stage, sound and lights for the Festival on the Trails on September 14-15th.

Councilmember Breen seconded the motion.

All of the members voting in favor of
the motion, the motion carried

There being no further business to come before the Council, on a motion duly made and seconded, the meeting adjourned at 9:52 P.M.

Teresa Anderson, City Clerk